

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHERYL L. GUARDIPEE,

Defendant.

CR 13-75-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO MODIFY
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on January 20, 2016. (Doc. 85.) Neither party filed objections. When a party makes no objections, the Court need not review de novo the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149–152 (1986). The Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on January 13, 2016. (Doc. 80.) Guardipee admitted to violating her conditions of supervised release by: failing to notify her probation officer prior to a change in residence; failing to report for urinalysis testing; using marijuana; and failing to provide the Probation

Office with requested financial information. (*Id.*) She denied committing a new crime and possessing marijuana. (*Id.*) Judge Johnston found the evidence sufficient to establish that Guardipee had violated the conditions of her supervised release. (*Id.*)

Judge Johnston recommends that the Court revoke Guardipee's supervised release. (Doc. 85.) Judge Johnston recommends that the Court remand Guardipee to the custody of the United States Bureau of Prisons for eight (8) months, with no supervised release to follow. (*Id.*)

Guardipee's violation grade is Grade C, her underlying offense is a Class C felony, and her criminal history category is I. She could be incarcerated for up to 24 months. She could be ordered to remain on supervised release for up to 32 months, less any custody time imposed. The United States Sentencing Guidelines call for three to nine months in custody.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Guardipee's current violation is serious in nature. A sentence of eight (8) months in custody is sufficient, but not greater than necessary.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 85) is ADOPTED IN FULL.

IT IS FURTHER ORDERED:

(1) That Defendant Cheryl L. Guardipee's supervised release shall be
revoked;

(2) That Guardipee shall be remanded to the custody of the United States
Bureau of Prisons for a period of eight (8) months, with no supervised release to
follow.

DATED this 2nd day of February, 2016.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable. It is positioned above a horizontal line.

Brian Morris
United States District Court Judge